

JUDGE SWEET

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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TRANSCOM SHIPPING N.V.,

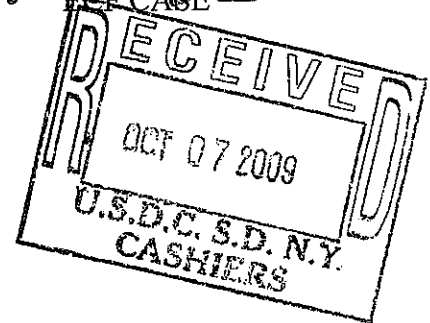
Plaintiff,

- against -

KYE INTERNATIONAL GENERAL TRADING LLC,

Defendant.  
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09 CIV 8527  
FCE CASE



**VERIFIED COMPLAINT**

Plaintiff TRANSCOM SHIPPING N.V., (hereinafter "Transcom" or "Plaintiff") by and through its attorneys, Lennon, Murphy & Lennon, LLC, as and for its Verified Complaint against the Defendant KYE INTERNATIONAL GENERAL TRADING LLC (hereinafter "KYE" or "Defendant") alleges, upon information and belief, as follows:

1. This is an admiralty and maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure and 28 United States Code § 1333. This claim involves the breach of maritime contracts. This matter also arises under the Court's federal question jurisdiction within the meaning of 28 United States § 1331.

2. At all times material to this action, TRANSCOM SHIPPING N.V. was, and still is, a foreign corporation, or other business entity organized and existing under the laws of Antilles, The Netherlands, and was the owner of the motor vessel "TEOS," (hereinafter the "Vessel") pursuant to a charter party dated June 23, 2009. *See copy of "TEOS" charter party (the "Charter Party") annexed hereto as Exhibit "1."*

3. Upon information and belief, KYE was, and still is, a foreign corporation, or other business entity organized and existing under the laws of Dubai, United Arab Emirates.

4. By the terms of Clauses 10, 11 and 12 of Part 1 of the Charter Party, Plaintiff chartered the Vessel to Defendant for the carriage of “MIMIMUM/MAXIMUM 9500/9700 METRIC TONS UP TO FULL AND COMPLETE IN OWNERS’ OPTION CEMENT IN BIG BAGS” from Antalya, Turkey to Onne, Nigeria.

5. Pursuant to the Clause 20 of Part 1 of the Charter Party, Defendant agreed to pay demurrage<sup>1</sup> at the rate of \$6,000.00 per day / pro rata.

6. Plaintiff delivered the Vessel into the service of the Defendant and fully performed all duties and obligations under the Charter Party.

7. Pursuant to Clause 18 of the additional rider clauses of the Charter Party, Defendant was required to pay all discharge port expenses.

8. Prior to arrival at the discharge port, on or about July 26, 2009, the Vessel was advised by Defendant’s local agent that Defendant failed to pay discharge port expenses, that, therefore, the Vessel was not allowed to berth, and that the Vessel should steam a minimum of 40 nautical miles away to avoid piracy attacks, with which the Vessel complied.

9. A few days later, on or about July 30, 2009, Defendant’s local agent instructed the Vessel to proceed to the pilot station, ready for berthing, with which the Vessel complied.

10. The next day, the Vessel was informed that payment of discharge port expenses could not be traced and that, therefore, the Vessel was not allowed to berth. Consequently, the Vessel proceeded back to its safe position away from the pilot station. However, a vessel near the “safe position” was attacked by pirates, so the Vessel proceeded an additional 20 nautical miles for her safety.

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<sup>1</sup> Demurrage is a liquidated damage for delay set forth in the charter party that requires a charterer to pay to owner when the vessel is prevented from the loading or discharging of cargo within the stipulated laytime (i.e., the maximum time permitted in the charter party for cargo operations)– here stipulated by the parties as \$6,000 pdpr.

11. Again, on or about August 10, 2009, the Defendant's local agent instructed the Vessel to proceed to the pilot station, ready for berthing, with which the Vessel complied. Due to Defendant's non- payment of discharge port expenses, the Vessel was not allowed to berth and proceeded back to its safe position 60 miles away.

12. The Vessel eventually berthed on August 15, 2009.

13. Due to Defendant's delays in payment of discharge port expenses, approximately \$20,801.20 worth of IFO/MDO fuel was consumed by the Vessel proceeding back and forth between the pilot station and a safe position.

14. A dispute arose between the parties regarding Defendant's failure to pay demurrage and extra fuel payments due and owing to Plaintiff under the Charter Party.

15. As a result of Defendant's breach of the Charter Party due to its failure to pay demurrage and extra fuel payments of the Vessel, Plaintiff has sustained damages in the total principal amount of \$160,155.61, exclusive of interest, arbitration costs and attorneys fees. *See Invoice, Laytime Calculation and Statement of Facts annexed hereto as Exhibit "2."*

16. To date, and despite due demand, Defendant has refused and/or failed to pay outstanding demurrage and extra fuel payments due and owing under the Charter Party in the total sum of \$160,155.61.

17. Pursuant to the Charter Party, disputes between the parties are to be submitted to arbitration in London subject to English law. Plaintiff intends to commence arbitration of its claim against Defendant.

18. This action is brought in order to obtain jurisdiction over Defendant and also to obtain security for Plaintiff's claims and in aid of London arbitration proceedings.

19. As best as can now be estimated, Plaintiff expects to recover the following amounts at arbitration as the prevailing party:

a.	Principal Claim -	
	Demurrage:	\$139,354.41
	Extra Fuel:	\$20,801.20
	Total Principal Claim:	\$160,155.61
b.	Interest on principal claim: (2 years compounded annually at 3.25 %)	\$ 10,579.28
c.	Estimated recoverable arbitration costs and fees:	\$ 30,000.00
	<b>Total:</b>	<b>\$200,734.89</b>

20. The Defendant cannot be found within this District within the meaning of Rule B of the Supplemental Rules for Admiralty and Maritime Claims and Asset Forfeiture Actions of the Federal Rules of Civil Procedure, but, upon information and belief, Defendant has, or will have during the pendency of this action, assets within this District and subject to the jurisdiction of this Court, held in the hands of one or more garnishees which are believed to be due and owing to the Defendant. *See Affidavit in Support of Prayer for Maritime Attachment annexed hereto as Exhibit "3."*

21. The Plaintiff seeks an Ex Parte Order from this court directing the Clerk of Court to issue Process of Maritime Attachment and Garnishment pursuant to Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims and Asset Forfeiture Actions, and also pursuant to the United States Arbitration Act, 9 U.S.C. §§ 1 and 8, attaching, *inter alia*, any assets of the Defendant held by the aforesaid garnishees for the purpose of obtaining personal jurisdiction over the Defendant, and to secure the Plaintiff's claims as described above.

**WHEREFORE**, Plaintiff prays:

A. That process in due form of law issue against the Defendant, citing it to appear and answer under oath all and singular the matters alleged in the Verified Complaint;

B. That pursuant to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards as codified at 9 U.S.C. § 201. *et seq.* and/or the doctrine of comity this Court recognize and confirm any foreign judgment or arbitration award, or judgment based thereon, rendered on the claims had herein as a Judgment of this Court;

C. That since the Defendant cannot be found within this District pursuant to Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims, this Court issue an Ex Parte Order directing the Clerk of Court to issue Process of Maritime Attachment and Garnishment pursuant to Rule B of the Supplemental Rules for Admiralty and Maritime Claims and Asset Forfeiture Actions, attaching all tangible or intangible property of the Defendant within the District, including but not limited to any funds held by any garnishee, which are due and owing to the Defendant, up to the amount \$200,734.89 to secure the Plaintiff's claims, and that all persons claiming any interest in the same be cited to appear and pursuant to Supplemental Admiralty Rule B answer the matters alleged in the Complaint;

D. That this Court enter Judgment against Defendant on the claims set forth herein;

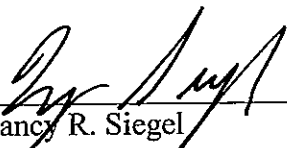
E. That this Court retain jurisdiction over this matter through the entry of any judgment or award associated with any of the claims currently pending, or which may be initiated in the future, including any appeals thereof;

F. That this Court award Plaintiff its attorney's fees and costs of this action; and

G. That the Plaintiff have such other, further and different relief as the Court may deem just and proper.

Dated: October 7, 2009

The Plaintiff,  
TRANSCOM SHIPPING N.V.

By:   
\_\_\_\_\_  
Nancy R. Siegel  
Charles E. Murphy  
Coleen A. McEvoy  
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### ATTORNEY'S VERIFICATION

State of Connecticut )  
 ) ss.: Town of Southport.  
County of Fairfield )

1. My name is Nancy R. Siegel.
2. I am over 18 years of age, of sound mind, capable of making this

Verification, and fully competent to testify to all matters stated herein.

3. I am an attorney in the firm of Lennon, Murphy & Lennon, LLC, attorneys for the Plaintiff.


4. I have read the foregoing Verified Complaint and know the contents thereof and believe the same to be true and accurate to the best of my knowledge, information and belief.

5. The reason why this Verification is being made by the deponent and not by the Plaintiff is that the Plaintiff is a business organization with no officers or directors now within this District.

6. The source of my knowledge and the grounds for my belief are the statements made, and the documents and information received from, the Plaintiff and agents and/or representatives of the Plaintiff.

7. I am authorized to make this Verification on behalf of the Plaintiff.

Dated:           October 7, 2009

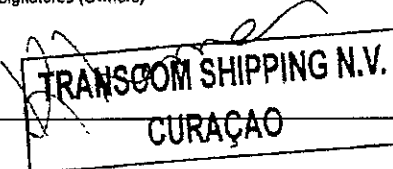
  
Nancy R. Siegel

# EXHIBIT 1



<b>1. Shipbroker</b> <b>Sudoservice Shipping Consultancy and Trading Ltd.</b> <b>Shipping Agency License Nr. 0214</b> <b>Acibadem Cad. Ibrahimaga Is Bankasi Konutlari</b> <b>A-2 Blok D.3 Kadikoy - Istanbul / TURKEY</b> <b>Phn: +90 216 327 59 03 - 04 Fax: +90 216 327 65 93</b> <b>chartering@sudoserviceshipping.net</b>	<b>RECOMMENDED</b> <b>THE BALTIC AND INTERNATIONAL MARITIME COUNCIL</b> <b>UNIFORM GENERAL CHARTER (AS REVISED 1922, 1976 AND 1994)</b> <b>(To be used for trades for which no specially approved form is force)</b> <b>CODE NAME: "GENCON"</b>
<b>3. Owners/Place of business (Cl. 1)</b>	<b>2. Place and date</b> <b>ISTANBUL, 23/06/2009</b>
<b>TRANSCOM SHIPPING NV NETHERLAND ANTILLES,</b> <b>AS HEADOWNERS</b>	<b>4. Charterers/Place of business (Cl. 1)</b> <b>K.Y.E INTERNATIONAL GENERAL TRADING L.L.C -</b> <b>DUBAI</b>
<b>5. Vessel's name</b> <b>M / V "TEOS"</b>	<b>6. GT/NT (Cl. 1)</b> <b>8205 / 4220</b>
<b>7. DWT all told on summer load line in metric tons (abt.) (Cl. 1)</b> <b>10082 DWT ON 7,82 MTR</b>	<b>8. Present position (Cl. 1)</b> <b>ETB ALEXANDRIA ON 24TH OF JUNE WP/IAGW</b> <b>ETC/S ON 27TH OF JUNE WP/IAGW</b> <b>ETA ANTALYA 28-29 OF JUNE WP/IAGW</b>
<b>9. Expected ready to load (abt.) (Cl. 1)</b> <b>29 JUNE 2009</b>	
<b>10. Loading port or place (Cl. 1)</b> <b>1 SAFE PORT SAFE BERTH ALWAYS AFLOAT ANTALYA PORT,</b> <b>TURKEY</b> <b>OWNERS CONFIRM THAT THEY HAVE CHECKED LOAD PORT</b> <b>BERTH(S) AND HAVE SATISFIED THEMSELVES THAT THEIR</b> <b>VESSEL IS SUITABLE IN ALL RESPECTS FOR THIS TRADE AT</b> <b>THIS TIME IN THESE PORTS.</b>	<b>11. Discharging port or place (Cl. 1)</b> <b>1 PORT 1 CHARTERERS BERTH, ANCHORAGE OR PLACE IN</b> <b>CHARTERERS' OPTION ONNE PORT/ NIGERIA INTENTION "FOT"</b> <b>TERMINAL NOT ALWAYS AFLOAT BUT SAFELY AGROUNDED</b> <b>OWNERS CONFIRM THAT THEY HAVE CHECKED DISCHARGE</b> <b>PORT/ BERTH(S) AND HAVE SATISFIED THEMSELVES THAT</b> <b>THEIR VESSEL IS SUITABLE IN ALL RESPECTS FOR THIS TRADE</b> <b>AT THIS TIME IN THESE PORTS.</b>
<b>12. Cargo (also state quantity and margin in Owners' option, if agreed; if full and complete cargo not agreed state "part cargo") (Cl. 1)</b> <b>MINIMUM /MAXIMUM 9500 /9700 METRIC TONS UP TO FULL AND COMPLETE IN OWNERS' OPTION CEMENT IN BIG BAGS</b> <b>- AS SOLE CARGO</b> <b>EXACT QUANTITY TO BE ADVISED BEFORE COMENCEMENT OF LOADING</b> <b>OWNERS TO GUARANTEE THAT THE VESSEL'S DWCC FOR THIS VOYAGE/FOR CHARTERERS DESCRIBED SOLE CARGO IS</b> <b>MINIMUM 9500 MTS AND OWNERS GUARANTEE THAT VESSEL CAN LOAD/STOW THIS QUANTITY OF CHARTERERS'</b> <b>DESCRIBED CARGO. OWNERS UNDERSTAND THAT ANY FAILURE BY THE VESSEL TO LIFT THIS GUARANTEED MAXIMUM</b> <b>QUANTITY WILL RESULT IN A CLAIM FOR DAMAGES.</b> <b>ONE PORT LOAD AND ONE PORT DISCHARGE ONLY.</b>	
<b>13. Freight rate (also state if payable on delivered or in taken quantity) (Cl. 4)</b> <b>USD 41.00 PER MT 1/1 FREE IN/OUT STOWED, LASHED,</b> <b>SECURED AND DUNNAGED + FREE ACTUAL PROFORMA</b> <b>DISBURSEMENT ACCOUNT AT DISCHARGE PORT TO BE</b> <b>PAID BY CHARTERERS/RECEIVERS.</b>	<b>14. Freight payment (state currency and method of payment, also beneficiary and bank account) (Cl. 4)</b> <b>SEE CLAUSE 41</b>
<b>15. State if vessel's cargo handling gear shall not be used (Cl. 5)</b> <b>SHIP'S GEAR TO BE USED ONLY AT DISCHARGE</b> <b>PORT.</b>	<b>16. Laytime (if separate laytime for load, and disch. is agreed, fill in a) and b) if total laytime for load, and disch., fill in c) only) (Cl. 6)</b>
<b>17. Shippers/Place of business (Cl. 6)</b> <b>---</b>	<b>a) Laytime for loading</b> <b>SEE CLAUSE 19</b>
<b>18. Agents (loading) (Cl. 6)</b> <b>SEE CLAUSE 22</b>	<b>b) Laytime for discharging</b> <b>SEE CLAUSE 19</b>
<b>19. Agents (discharging) (Cl. 6)</b> <b>SEE CLAUSE 22</b>	<b>c) Total laytime for loading and discharging</b> <b>---</b>
<b>20. Demurrage rate manner payable (loading and discharging) (Cl. 7)</b> <b>USD 6000 PER DAY / PRO RATA -</b> <b>FREE DESPATCH</b>	<b>21. Cancelling date (Cl. 9)</b> <b>30 JUNE 2009</b> <b>22. General Average to be adjusted at (Cl. 12)</b> <b>LONDON AS PER YORK ANTWERP RULES 1994</b>
<b>23. Freight Tax (state if for the Owner's account) (Cl. 13b)</b> <b>TO BE FOR OWNERS' ACCOUNT.</b>	<b>24. Brokerage commission and to whom payable (Cl. 15).</b> <b>2.50 PERCENT TOTAL COMMISSION (INCLUDING</b> <b>ADDRESS COMMISSION) TO BE PAYABLE BY OWNERS</b> <b>ON FREIGHT/ DEADFREIGHT/ DEMURRAGE</b>
<b>25. Law and Arbitration (state 19 (a), 19 (b), or 19 (c): if 19 (c) agreed also state Place of Arbitration) (if not fitted in 19(a) shall apply 19(c)).</b> <b>TO BE SETTLED IN LONDON, ENGLISH LAW TO APPLY,</b> <b>LMAA SMALL CLAIMS PROCEDURE TO APPLY</b>	
<b>(a) State maximum amount for small claims/shortened arbitration (Cl. 19).</b>	<b>26. Additional clauses covering special provision, if agreed.</b> <b>ADDITIONAL CLAUSES 18/ 53 ARE DEEMED TO BE</b> <b>INCORPORATED AND FORM PART OF THIS CHARTER PARTY.</b>

It is mutually agreed that this Contract shall be performed subject to the conditions contained in this Charter which shall include Part I as well as Part II. In the event of a conflict of conditions, the provisions of Part I shall prevail over those of Part II to the extent of such conflict.

<b>Signatures (Owners)</b>  <b>TRANSCOM SHIPPING N.V.</b> <b>CURAÇAO</b>	<b>Signatures (Charterers)</b> 
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## PART II

"Gencon" Charter (As Revised 1922, 1976 and 1994)

1. It is agreed between the party mentioned in Box 3 as Owners of the Vessel named in Box 5, of the GT/NT indicated in Box 6 and carrying about the number of metric tons of deadweight capacity all told on summer loadline stated in Box 7, now in position as stated in Box 8 and expected ready to load under this Charter Party about the date indicated in Box 9, and the party mentioned as the Charterers in Box 4 that: The said Vessel shall, as soon as her prior commitments have been completed, proceed to the loading port(s) or place(s) stated in Box 10 or so near thereto as she may safely get and lie always afloat, and there load a full and complete cargo (if shipment of deck cargo agreed same to be at Charterers' risk and responsibility) as stated in Box 12, which the Charterers bind themselves to ship, and being so loaded the vessel shall proceed to the discharging port(s) or place(s) stated in Box 11 as ordered on signing Bills of Lading, or so near thereto as she may safely get and lie always afloat, and deliver the cargo.	1 2 3 4 5 6 7 8 9 10 11 12 13 14	always work under the supervision of the Master. (c) Stevedore Damage The Charterers shall be responsible for damage (beyond ordinary wear and tear) to any part of the Vessel caused by Stevedores. Such damage shall be notified as soon as reasonably possible by the Master to the Charterers or their agents and to their Stevedores, failing which the Charterers shall not be held responsible. The Master shall endeavour to obtain the Stevedores' written acknowledgement of liability. The Charterers are obliged to repair any stevedore damage prior to completion of the voyage, but must repair stevedore damage affecting the Vessel's seaworthiness or class before the Vessel sails from the port where such damage was caused or found. All additional expenses incurred shall be for the account of the Charterers and any time lost shall be for the account of and shall be paid to the Owners by the Charterers at the demurrage rate.	75 76 77 78 79 80 81 82 83 84 85 86 87 88
2. Owners Responsibility Clause The Owners are to be responsible for loss of or damage to the goods or for delay in delivery of the goods only in case the loss, damage or delay has been caused by personal want of due diligence on the part of the Owners or their Manager to make the Vessel in all respects seaworthy and to secure that she is properly manned, equipped and supplied, or by the personal act or default of the Owners or their Manager. And the Owners are responsible for loss, damage or delay arising from any other cause whatsoever, even from the neglect or default of the Master or crew or some other person employed by the Owners on board or ashore for whose acts they would, but for this Clause, be responsible, or from unseaworthiness of the Vessel on loading or commencement of voyage or at any time whatsoever.	15 16 17 18 19 20 21 22 23 24 25 26 27	6. Laytime (a) Separate laytime for loading and discharging The cargo shall be loaded within the number of running days/ hours as indicated in Box 16, weather permitting, Saturdays, Sundays and holidays excepted, unless even if used, in which event time used shall count. The cargo shall be discharged within the number of running days/ hours as indicated in Box 16, weather permitting, Saturdays, Sundays and holidays excepted, unless even if used, in which event time used shall count. (b) Total laytime for loading and discharging The cargo shall be loaded and discharged within the number of total running days/ hours as indicated in Box 16, weather permitting, Saturdays and holidays excepted, unless used, in which event time used shall count. (c) Commencement of laytime (loading and discharging) Laytime for loading and discharging shall commence at 14.00 hours, if notice of readiness is given up to and including 12.00 hours, and at 08.00 hours next working day if notice given during office hours after 12.00 hours. Notice of readiness at loading port to be given to the Shippers named in Box 17 or if not named, to the Charterers or their agents named in Box 18. Notice of readiness at the discharging port to be given to the Receivers or, if not known, to the Charterers or their agents named in Box 19. If the loading/ discharging berth is not available on the Vessel's arrival at or off the port of loading/ discharging, the Vessel shall be entitled to give notice of readiness within ordinary office hours on arrival there, whether in free pratique or not, whether customs cleared or not. Laytime or time on demurrage shall then count as if she were in berth and in all respects ready for loading/ discharging provided that the Master warrants that she is in fact ready in all respects. Time used in moving from the place of waiting to the loading/ discharging berth/anchorage shall not count as laytime. If, after inspection, the Vessel is found not to be ready in all respects to load/ discharge time lost after the discovery thereof until the Vessel is again ready to load/ discharge shall not count as laytime. Time used before commencement of laytime shall not count. * Indicate alternative (a) or (b) as agreed, in Box 16.	89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121
3. Deviation Clause The vessel has liberty to call at any port or ports in any order, for any purpose, to sail without pilots, to tow and/or assist Vessels in all situations, and also to deviate for the purpose of saving life and/or property.	28 29 30 31		
4. Payment of Freight (a) The freight at the rate stated in Box 13 shall be paid in cash calculated on the intaken quantity of cargo. (b) Prepaid. If according to Box 13 freight is to be paid on shipment, it shall be deemed earned and non-returnable, Vessel and/or cargo lost or not lost. Neither the Owners nor their agents shall be required to sign or endorse bills of lading showing freight prepaid unless the freight due to the Owners has actually been paid. (c) On delivery. If according to Box 13 freight, or part thereof, is payable at destination it shall not be deemed earned until the cargo is thus delivered. Notwithstanding the provisions under (a), if freight or part thereof is payable on delivery of the cargo the Charterers shall have the option of paying the freight on delivered weight/quantity provided such option is declared before breaking bulk and the weight/quantity can be ascertained by official weighing machine, joint draft survey or tally. Cash for Vessel's ordinary disbursements at the port of loading to be advanced by the Charterers, if required, at highest current rate of exchange, subject to two (2) percent to cover insurance and other expenses.	32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49		
5. Loading/Discharging (a) Costs/Risks The cargo shall be brought into the holds, loaded, stowed and/ or trimmed tallied, lashed and/or secured and taken from the holds and discharged by the Charterers, free of any risk, liability and expense whatsoever to the Owners. The Charterers shall provide and lay all dunnage material as required for the proper stowage and protection of the cargo on board, the Owners allowing the use of all dunnage available on board. The Charterers shall be responsible for and pay the cost of removing their dunnage after discharge of the cargo under this Charter Party and time to count until dunnage has been removed. (b) Cargo Handling Gear Unless the Vessel is gearless or unless it has been agreed between the parties that the Vessel's gear shall not be used and stated as such in Box 15, the Owners shall throughout the duration of loading/discharging give free use of the Vessel's cargo handling gear and of sufficient motive power to operate all such cargo handling gear. All such equipment to be in good working order. Unless caused by negligence of the stevedores, time lost by breakdown of the Vessel's cargo handling gear or motive power - pro rata the total number of cranes/ winches required at that time for the loading/ discharging of cargo under this Charter Party - shall not count as laytime or time on demurrage. On request the Owners shall provide free of charge crane man/winchman from the crew to operate the Vessel's cargo handling gear, unless local regulations prohibit this, in which latter event shore labourers shall be for the account of the Charterers. Crane men/ winchmen shall be under the Charterers' risk and responsibility and as stevedores to be deemed as their servants but shall	50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74		
		7. Demurrage Demurrage at the loading and discharging port is payable by the Charterers at the rate stated in Box 20 in the manner stated in Box 20 per day or pro rata for any part of day. Demurrage shall fall due day by day and shall be payable upon receipt of the Owners' invoice. In the event the demurrage is not paid in accordance with the above, the Owners shall give the Charterers 96 running hours written notice to rectify the failure. If the demurrage is not paid at the expiration of this time limit and if the vessel is in or at the loading port, the Owners are entitled at any time to terminate the Charter Party and claim damages for any losses caused thereby.	122 123 124 125 126 127 128 129 130 131
		8. Lien Clause The Owners shall have a lien on the cargo and on all sub-freights payable in respect of the cargo, for freight, deadfreight, demurrage, claims for damages and for all other amounts due under this Charter Party including costs of recovering same.	132 133 134 135 136
		9. Cancelling Clause (a) Should the Vessel not be ready to load (whether in berth or not) on the cancelling date indicated in Box 21, the Charterers shall have the option of cancelling this Charter Party.  (b) Should the Owners anticipate that, despite the exercise of due diligence, the Vessel will not be ready to load by the cancelling date, they shall notify the Charterers thereof without delay stating the expected date of the Vessel's	137 138 139 140 141 142 143

## PART II

"Gencon" Charter (As Revised 1922, 1976 and 1994)

readiness to load and asking whether the Charterers will exercise their option of cancelling the Charter Party, or agree to a new cancelling date.	144	Brokers as indemnity for the latter's expenses and work. In case of more voyages the amount of indemnity to be agreed.	215
Such option must be declared by the Charterers within 48 running hours after the receipt of the Owners' notice. If the Charterers do not exercise their option of cancelling, then this Charter Party shall be deemed to be amended such that the seventh day after the new readiness date stated in the Owners' notification to the Charterers shall be the new cancelling date.	145		216
The provisions of sub-clause (b) of this Clause shall operate only once, and in case of the Vessel's further delay, the Charterers shall have the option of cancelling the Charter Party as per sub-clause (a) of this Clause.	146		
	147	16. General Strike Clause	217
	148	(a) If there is a strike or lock-out affecting or preventing the actual loading of the cargo, or any part of it, when the Vessel is ready to proceed from her last port or at any time during the voyage to the port or ports of loading or after her arrival there, the Master or the Owners may ask the Charterers to declare, that they agree to reckon the laydays as if there were no strike or lock-out. Unless the Charterers have given such declaration in writing (by telegram, if necessary) within 24 hours, the Owners shall have the option of cancelling this Charter Party. If part cargo has already been loaded, the Owners must proceed with same, (freight payable on loaded quantity only) having liberty to complete with other cargo on the way for their own account.	218
	149	(b) If there is a strike or lock-out affecting or preventing the actual discharging of the cargo on or after the Vessel's arrival at or off port of discharge and same has not been settled within 48 hours, the Charterers shall have the option of keeping the Vessel waiting until such strike or lock-out is at an end against paying half demurrage after expiration of the time provided for discharging until the strike or lock-out terminates and thereafter full demurrage shall be payable until the completion of discharging, or of ordering the Vessel to a safe port where she can safely discharge without risk of being detained by strike or lock-out. Such orders to be given within 48 hours after the Master or the Owners have given notice to the Charterers of the strike or lock-out affecting the discharge. On delivery of the cargo at such port, all conditions of this Charter Party and of the Bill of Lading shall apply and the Vessel shall receive the same freight as if she had discharged at the original port of destination, except that if the distance of the substituted port exceeds 100 nautical miles, the freight on the cargo delivered at the substituted port to be increased in proportion.	219
	150	(c) Except for the obligations described above, neither the Charterers nor the Owners shall be responsible for the consequences of any strikes or lock-outs preventing or affecting the actual loading or discharging of the cargo.	220
	151		221
	152		222
	153		223
10. Bills of Lading	154		224
Bills of Lading shall be presented and signed by the Master as per the "Congenbill" Bill of Lading form, Edition 1994, without prejudice to this Charter Party, or by the Owners' agents provided written authority has been given by Owners to the agents, a copy of which is to be furnished to the Charterers. The Charterers shall indemnify the Owners against all consequences or liabilities that may arise from the signing of bills of lading as presented to the extent that the terms or contents of such bills of lading impose or result in the imposition of more onerous liabilities upon the Owners than those assumed by the Owners under this Charter Party.	155		225
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	161		231
	162		232
	163		233
11. Both-to-Blame Collision Clause	164		234
If the Vessel comes into collision with another vessel as a result of the negligence of the other vessel and any act, neglect or default of the Master, Mariner, Pilot or the servants of the Owners in the navigation or in the management of the Vessel, the owners of the cargo carried hereunder will indemnify the Owners against all loss or liability to the other or non-carrying vessel or her owners in so far as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of said cargo, paid or payable by the other or non-carrying vessel or her owners to the owners of said cargo and set-off, recouped or recovered by the other or non-carrying vessel or her owners as part of their claim against the carrying Vessel or the Owners. The foregoing provisions shall also apply where the owners, operators or those in charge of any vessel or vessels or objects other than, or in addition to, the colliding vessels or objects are at fault in respect of a collision or contact.	165		235
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	177		247
12. General Average and New Jason Clause	178		248
General average shall be adjusted in London unless otherwise agreed in Box 22 according to York-Antwerp Rules 1994 and any subsequent modification thereof. Proprietors of cargo to pay the cargo's share in the general expenses even if same have been necessitated through neglect or default of the Owners' servants (see clause 2).	179		249
If General Average is to be adjusted in accordance with the law and practice of the United States of America, the following Clause shall apply: "In the event of accident, danger, damage or disaster before or after the commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, the Owners are not responsible, by statute, contract or otherwise, the cargo shippers, consignees or owners of the cargo shall contribute with the Owners in General Average to the payment of any sacrifices, losses or expenses of a General Average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the cargo. If a salving vessel is owned or operated by the Owners, salvage shall be paid for as fully as if the said salving vessel or vessels belonged to strangers. Such deposit as the Owners, or their agents, may deem sufficient to cover the estimated contribution of the goods and any salvage and special charges thereon shall, if required, be made by the cargo, shippers, consignees or owners of the goods to the Owners before delivery."	180		250
	181		251
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	198		268
13. Taxes and Dues Clause	199		269
(a) <i>On Vessel</i> - The Owners shall pay all dues, charges and taxes customarily levied on the Vessel, howsoever the amount thereof may be assessed.	200		270
(b) <i>On cargo</i> - The Charterers shall pay all dues, charges, duties and taxes customarily levied on the cargo, howsoever the amount thereof may be assessed.	201		271
(c) <i>On freight</i> - Unless otherwise agreed in Box 23, taxes levied on the freight shall be for the Charterers' Owners' account.	202		272
	203		273
	204		274
	205		275
	206		276
14. Agency	207		277
In every case the Owners shall appoint their own Agents nominated by Charterers both at the port of loading and port of discharge.	208		278
	209		279
15. Brokerage	210		280
A brokerage commission at the rate stated in Box 24 on the freight, dead-freight and demurrage earned is due to party mentioned in Box 24.	211		281
In case of non-execution 1/3 of the brokerage on the estimated amount of freight to be paid by the party responsible for such non-execution to the	212		282
	213		283
	214		284
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## PART II

"Gencon" Charter (As Revised 1922, 1976 and 1994)

- notice, the Charterers shall not have nominated such a port, the Owners may discharge the cargo at any safe port of their choice (including the port of loading) in complete fulfillment of the Contract of Carriage. The Owners shall be entitled to recover from the Charterers the extra expenses of such discharge and, if the discharge takes place at any port other than the loading port, to receive the full freight as though the cargo had been carried to the discharging port and if the extra distance exceeds 100 miles, to additional freight which shall be the same percentage of the freight contracted for as the percentage which the extra distance represents to the distance of the normal and customary route, the Owners having a lien on the cargo for such expenses and freight.
- (4) If at any stage of the voyage after the loading of the cargo commences, it appears that, in the reasonable judgement of the Master and/or the Owners, the Vessel, her cargo, crew or other persons on board the Vessel may be, or are likely to be, exposed to War Risks on any part of the route (including any canal or waterway) which is normally and customarily used in a voyage of the nature contracted for, and there is another longer route to the discharging port, the Owners shall give notice to the Charterers that this route will be taken. In this event the Owners shall be entitled if the total extra distance exceeds 100 miles, to additional freight which shall be the same percentage of the freight contracted for as the percentage which the extra distance represents to the distance of the normal and customary route.
- (5) The Vessel shall have liberty:
- (a) to comply with all orders, directions, recommendations or advice as to departure, arrival, routes, sailing in convoy, ports of call, stoppages, destinations, discharge of cargo, delivery or in any way whatsoever which are given by the Government of the Nation under whose flag the Vessel sails, or other Government to whose laws the Owners are subject, or any other Government which so requires, or any body or group acting with the power to compel compliance with their orders or directions;
  - (b) to comply with the orders, directions or recommendations of any war risks underwriters who have the authority to give the same under the terms of the war risks insurance;
  - (c) to comply with the terms of any resolution of the Security Council of the United Nations, any directives of the European Community, the effective orders of any other Supranational body which has the right to issue and give the same, and with national laws aimed at enforcing the same to which the Owners are subject, and to obey the orders and directions of those who are charged with their enforcement;
  - (d) to discharge at any other port any cargo or part thereof which may render the Vessel liable to confiscation as a contraband carrier;
  - (e) to call at any other port to change the crew or any part thereof or other persons on board the Vessel when there is reason to believe that they may be subject to internment, imprisonment or other sanctions;
  - (f) where cargo has not been loaded or has been discharged by the Owners under any provisions of this Clause, to load other cargo for the Owners' own benefit and carry it to any other port or ports whatsoever, whether backwards or forwards or in a contrary direction to the ordinary or customary route.
- (6) If in compliance with any of the provisions of sub-clauses (2) to (5) of this Clause anything is done or not done, such shall not be deemed to be a deviation, but shall be considered as due fulfillment of the Contract of Carriage.
18. General Ice Clause
- Port of loading
- (a) In the event of the loading port being inaccessible by reason of ice when the Vessel is ready to proceed from her last port or at any time during the voyage or on the Vessel's arrival or in case frost sets in after the Vessel's arrival, the Master for fear of being frozen in is at liberty to leave without cargo, and this Charter Party shall be null and void.
- (b) If during loading the Master, for fear of the Vessel being frozen in, deems it advisable to leave, he has liberty to do so with what cargo he has on board and to proceed to any other port or ports with option of completing cargo for the Owners' benefit for any port or ports including port of discharge. Any part cargo thus loaded under this Charter Party to be forwarded to destination at the Vessel's expense but against payment of freight, provided that no extra expenses be thereby caused to the Charterers, freight being paid on quantity delivered (in proportion if lumpsum), all other conditions as per this Charter Party.
- (c) In case of more than one loading port, and if one or more of the ports are closed by ice, the Master or the Owners to be at liberty either to load the part cargo at the open port and fill up elsewhere for their own account as under section (b) or to declare the Charter Party null and void unless the Charterers agree to load full cargo at the open port.
- Port of discharge
- (a) Should ice prevent the Vessel from reaching port of discharge the Charterers shall have the option of keeping the Vessel waiting until the re-opening of navigation and paying demurrage or of ordering the Vessel to a safe and immediately accessible port where she can safely discharge without risk of detention by ice. Such orders to be given within 48 hours the Master or the Owners have given notice to the Charterers of the impossibility of reaching port of destination.
- (b) If during discharging the Master for fear of the Vessel being frozen in deems it advisable to leave, he has liberty to do so with what cargo he has on board and to proceed to the nearest accessible port where she can safely discharge.
- (c) On delivery of the cargo at such port, all conditions of the Bill of Lading shall apply and the Vessel shall receive the same freight as if she had discharged at the original port of destination, except that if the distance of the substituted port exceeds 100 nautical miles, the freight on the cargo delivered at the substituted port to be increased in proportion.
19. Law and Arbitration
- (a) This Charter Party shall be governed by and construed in accordance with English Law and any dispute arising out of this Charter Party shall be referred to arbitration in London in accordance with the Arbitration Acts 1950 and 1979 or any statutory modification or re-enactment thereof for the time being in force. Unless the parties agree upon a sole arbitrator, one arbitrator shall be appointed by each party and the arbitrators so appointed shall appoint a third arbitrator, the decision of the three-man tribunal thus constituted or any two of them, shall be final. On the receipt by one party of the nomination in writing of the other party's arbitrator, that party shall appoint their arbitrator within Fourteen days, failing which the decision of the single arbitrator appointed shall be final.
- For disputes where the total amount claimed by either party does not exceed the amount stated in Box 25\*\* the arbitration shall be conducted in accordance with the Small Claims Procedure of the London Maritime Arbitrators Association.
- (b) This Charter Party shall be governed by and construed in accordance with Title 9 of the United States Code and Maritime Law of the United States and should any dispute arise out of this Charter Party, the matter in dispute shall be referred to three persons at New York, one to be appointed by each of the parties hereto, and the third by the two so chosen; their decision or that of any two of them shall be final, and for purpose of enforcing any award, this agreement may be made a rule of the Court. The proceedings shall be conducted in accordance with the rules of the Society of Maritime Arbitrators, Inc.
- For disputes where the total amount claimed by either party does not exceed the amount stated in Box 25\*\* the arbitration shall be conducted in accordance with the Shortened Arbitration Procedure of the Society of Maritime Arbitrators, Inc.
- (c) Any dispute arising out of this Charter Party shall be referred to arbitration at the place indicated in Box 25, subject to the procedures applicable there. The laws of the place indicated in Box 25 shall govern this Charter Party.
- (d) If Box 25 in Part 1 is not filled in, sub-clause (a) of this Clause shall apply.
- (a), (b) and (c) are alternatives; indicate alternative agreed in Box 25.
- Where no figure is supplied in Box 25 in Part 1, this provision only shall be void but the other provisions of this Clause shall have full force and remain in effect.

**MV TEOS ADDITIONAL RIDER CLAUSES TO THE CHARTER PARTY DATED 23 JUNE 2009**

**CLAUSE 18**

Cargo to be loaded ,discharged by the Charterers free of expense to the vessel. Owners to pay ordinary port expenses at load port. Free actual proforma disbursement account, at discharge port, to be paid by Charterers/ Receivers.

**CLAUSE 19**

The loading rate 2500 metric tons per weather working day of 24 consecutive hours Saturdays, Sundays holidays excluded even if used, discharging rate 1200 mts weather working days of 24 consecutive hours Saturday, Sundays Holidays excluded even if used, both basis min 3 hatches always available. If longer detained, Charterers to pay demurrage at the rate stipulated in box 18.  
Laytime to be non – reversible.

**CLAUSE 20**

At loading and discharging ports, time from Friday 17.00 hours or 17.00 hours on days preceding a holiday, until 08.00 hours on Monday or 08.00 hours on the following working day, not to count even if used.

**CLAUSE 21**

Notice of Readiness may not be tendered prior to commencement or after cancelling date.

At loading ports, the NOR can be tendered WWW basis Saturdays Sundays Holidays excluded between 08 am and 5 pm. At discharging ports, the NOR must also be tendered during local office hours, from Monday to Friday , between 08 am and 5 pm.

At loadport and discharging ports, time to commence to count at 14.00 hours if notice of readiness is given before noon, and at 08.00 hours next working day if notice of readiness is given afternoon previous day. Notice of Readiness to be tendered whether in berth or not, whether in port or not, whether in free pratique granted or not and whether custom cleared or not .Time used before commencement of lay time not to count. If vessel fails to clear from the custom or grant free pratique due to reasons attributed to the vessel, time not to count as laytime from rejection until vessel passed.

NOR can be tendered at both ports by email, cable, telex-fax, vhf , radio.  
Time used in shifting on to berth /anchorage from waiting place , not to count.

Shifting, if any, to be for receivers account .  
Time used for canal or dock passages to be for owners account.

When the weather is bad or threatening the master will close the hatchcovers and time will not count as laytime.

**CLAUSE 22**

Charterers agent at load port:  
Sudoservice Shipping Consultancy and Trading Ltd.  
Shipping Agency License Nr. 0214  
Acibadem Cad. Ibrahimaga Is Bankasi Konutlari  
A-2 Blok D. 3 Kadikoy - Istanbul / TURKEY  
Phone : +90 216 327 59 03 - 04  
Fax : +90 216 327 65 93  
E-mail : [sudoservice@sudoserviceshipping.net](mailto:sudoservice@sudoserviceshipping.net) / [sudoservis@ttmail.com](mailto:sudoservis@ttmail.com)  
Pls visit our : [www.sudoserviceshipping.net](http://www.sudoserviceshipping.net)

Charterers agent at disch port:  
To be advised before vessel's arrival at Nigeria.

**CLAUSE 23**

Owners to give Notice of Readiness on fixing to Charterers and to keep the Charterers fully advised of vessel's eta load port and discharge port giving 3/2/1 days arrival notices.



**MV TEOS ADDITIONAL RIDER CLAUSES TO THE CHARTER PARTY DATED 23 JUNE 2009**

Notices to be given to [chartering@sudoserviceshipping.net](mailto:chartering@sudoserviceshipping.net) at load port.

**CLAUSE 24**

Owners/ Master herewith to authorize charterer agent Sudoserviceshipping to issue and sign "clean on Board" and "Freight prepaid" B/L on master's/ Owner's behalf in strict conformity with mates receipts and draft copy to be sent to owners for final approval before signing. In case freight prepaid, Owners will release these pre-paid bills of lading, immediately after; 1) Owners or owners bank receive from the remitting bank a telex/fax, or 2) Charterers/ Charterers brokers to provide a copy of the remitting bank's swift advice confirming payment has been irrevocably remitted to owners bank. Bills of lading marked freight prepaid and clean on board. Bills of lading signed released by the agent by writing Sudoservice shipping as agent on behalf of owners or on behalf of the master. Bills of lading will be prepaid in shippers office in Istanbul Charterers will fax the bills of Lading to the owners for their confirmation. Bills of lading can be released only after receiving owners written confirmation

**CLAUSE 25**

Master to sign statement of facts concerning time used in loading and discharging submitted to him by agents, making his reservation if he believes this statement to be incorrect

**CLAUSE 26**

All taxes/dues/charges on cargo at loading/discharging ports to be for Shippers/Receivers/Charterers account. Any taxes/dues on vessel/flag/freight, including dock/fairway dues to be for Owners' account at both ends. This also includes 'port' (quay) dues or 'conservancy charges on ship's or any other charges which are based on the metric ton of cargo loaded, but which are for owners account, only at load port. N.M.A. tax at Nigeria always to be for Charterers/Receiver's account.

**CLAUSE 27**

Any extra insurance on cargo, if any, due to vessel's age to be for Charterer's account. War risk premium, if any, to be for Owners account

**CLAUSE 28**

This contract is governed by English law. Dispute arising under this charter to be referred to arbitration in London. One arbitrator to be nominated by the owners and the other by the charterers and in case the arbitrators shall not agree then to the decision of an umpire to be appointed by them. The award of the arbitrators of the umpire to be final and binding upon both parties.

**CLAUSE 29**

Stevedores overtime to be for the account of party ordering same. If overtime ordered by Port Authority same to be for charterers account. However officers and crew overtime always to be for owners account.

**CLAUSE 30**

The stevedores although appointed by charterers shippers or receivers or their agents to be under the direction and control of the master. Charterers, shippers, receivers shall not be responsible for the acts and defaults of stevedores at loading and discharging ports. All claims for damages allegedly caused by stevedores to be settled directly between owners and stevedores at loading and discharging ports. Master to notify stevedores damage, if any, in writing within 24 hours after occurrence; otherwise, stevedores not to be held liable. In case owners can not settle stevedores damages, Charterers will assist owners in every possible way.

**CLAUSE 31**

Vessel to tender clear of Swept battens and obstacles that might be hindering the loading and discharging. Tank tops, tunnels, exposed cables and pipes to be entirely and properly protected by the vessel against the hazards normally connected with scrap cargo. Broken or split boards, cargo battens dunnage or loose protection on tank tops not to be considered as proper protection

**CLAUSE 32**

Vessel to furnish a certified calibration scale for all tanks including fore and after peak and double bottom tanks and deep tanks. Plimsol marks amidships and draft marks on port and starboard side. Bow and stern to clearly cut and

**MV TEOS ADDITIONAL RIDER CLAUSES TO THE CHARTER PARTY DATED 23 JUNE 2009**

marked on shell plating. Vessel to furnish capacity plan. Displacement scale and same to be certified by Master as to correctness at time of loading.

**CLAUSE 33**

Understood owners to comply with any law or regulation concerning oil pollution and owners financial responsibility therefore.

**CLAUSE 34**

Deleted

**CLAUSE 35**

Transshipment is not allowed.

**CLAUSE 36**

Owners/Master to be responsible for the number of big bags loaded on board the vessel

**CLAUSE 37**

The act of God, restraint of princess and rulers, the country's enemies, fire, floods droughts and all every dangers and stoppages at the mills and accidents of seas and rivers and navigation riot on the rail roads which may prevent the loading and discharging mutually excepted but same to be legally proven that will affect this shipment directly owner's right as per Voywar cls to apply in the above cases as well.

Bimco holiday calendar to apply.

**CLAUSE 38**

VOYWAR 1950, New Jason Clause, new both to blame collision, P & I bunkering clause as attached here to are fully incorporated in this charter party.

**CLAUSE 39**

DELETED

**CLAUSE 40 – Vessel's description**

Mv Teos

10082 dwt on 7,82 mtr – mpp/flush twd (can trade as SID)

1979 blt -st vincent flag – Insb class

imo number 7800306

loa/b/d 137,31 x 19,50 x 10,50 mtr

grt / nrt 8205 / 4220

grain/bale 532984 cuft/ 489192 cuft

no 1 g/b ( 79885 / 72121) cuft

no 2 g/b (232220 / 213596) cuft

no 3 g/b (220879 / 203475) cuft

3ho/3ha – single pull type mc gregor hatchcovers

hatches LXB no1 12.80x6.0 m / no 2+no3 25.60x10,50 m

hold LXBXH no1 18.4x4.0/14.0(fwd/aft)x4.03 m

holdsno2+no3 LXBXH 35.2x19.0x5.4 m

twins LXBXH no1 18.4x 9.9/16.0 (fwd/aft)x5.5 m

twins no 2+no 3 LxBxH 35.2x18.55x5.50 m

permissible loads holds 9 mts/sqm

twindecks 3.40 mts/sqm – hatchcovers 2,50 mts/sqm

geared 2 cranes 10 tons serving hatch no 1+forepart no 2

2 derricks 10 tons hatch no 2

1 stulcken derrick 60 tons serving hatches no 2+3

2 derricks 10 tons serving hatch no 3

1 velle derrick 22 tons hatch no 3

**MV TEOS ADDITIONAL RIDER CLAUSES TO THE CHARTER PARTY DATED 23 JUNE 2009**

app b + co2 + bow thruster fitted  
all about and wog

**CLAUSE 41**

100 percent of freight, on Bill(s) of Lading quantity, to be payable less commissions only, within 3 banking days, to Owners nominated bank account, after signing/ releasing the 'Clean on Board' Bill(s) of Lading marked 'Freight payable as per Charter Party' or in Charterers' option 'Freight Prepaid'. Full freight deemed earned on signing Bill(s) of Lading discountless and nonreturnable vessel and/or cargo lost or not lost.

All cargo will be loaded in clean condition and Master has the right to reject damaged cargo.

It is owner's option to perform preloading condition survey in order to ascertain the condition of the cargo. If preloading survey to be carried then expenses to be borne by the owners. Minor discrepancies remarks such as "broken big bags at the ends tiny oil spots as ascertained by the pandi club representative or by the master of the vsl shall be inserted in the mate's receipts however clean on board Bills of lading to be issued against charter's company LOI in owners pandi wording.

Undisputed and agreed demurrage, if any, to be paid in 7 banking days after owners have presented to charterers their final freight account together with the supporting documents

Freight will be paid in USD currency Charterers will be responsible from the demurrage at load /discharge ports and will be paid within 7 days after owners presentation of SOF, NOR, time sheet by fax.

**CLAUSE 42**

Charter party terms shall always supersede Bills of Lading terms whenever contradictory.

**CLAUSE 43**

Charterers /shippers / receivers have the liberty to work during expected periods and master to allow to be done

**CLAUSE 44**

Deleted

**CLAUSE 45**

Opening and closing of hatches and rigging of gears shall always be done for Owners' account. By crew if permitted by local regulations. If not permitted same to be for charter's account and time.

Owners guarantee that vessel's hatch covers are to be water tight all through this voyage. If any hatch covers found defective same should be rectified at owners time and expense to Charterers satisfaction and independent surveyors satisfaction. Charterers have the right to carry out hose test on all hatches prior to loading. If the vessel fails from the hose test twice then the charterers will have the option to cancel the fixture

**CLAUSE 46**

All cargo to be loaded in vessel's holds as customary and no cargo to be loaded in deep tanks or unusual places. Should any cargo to be loaded in deep tanks or in places not easily accessible to Shippers/Receivers. Any extra cost including loss of time for loading and discharging to be borne by the Owners.

**CLAUSE 47**

Vessel shall be highest classed and fully covered with P & I Club during the currency of this Charter Party.

All vessels certificates will be valid/through when the vessel arrived to load /discharge port. Whenever required the owners will be responsible to fax any certificate, any time, to the charterers during the voyage.

**CLAUSE 48**

Partial cargo not allowed.





**MV TEOS ADDITIONAL RIDER CLAUSES TO THE CHARTER PARTY DATED 23 JUNE 2009**

**CLAUSE 49**

No drydocking or repairs during the currency of this Charter party excluding emergency repairs affecting seaworthiness of the vessel.

**CLAUSE 50**

In case lack of original Bills of Lading be the time vessel arrives discharge port then Owners agree to discharge the cargo against Charterers company Letter of indemnity in owners P and I wording

**CLAUSE 51**

Vessel is geared with derricks 2 x 10 mts swl, 1 x 22 mts swl, 1 x 60 mts swl ; the cargo shall be discharged by vessel's own derricks, at discharge port only, free of charge to the shippers and Receivers.

Owners guarantee vessel's derricks are in good working condition or in case of vessel's crane breakdown, such period is considered off hire pro rata to the number of effected hatches (but in case non workable crane serving holds not containing cargo, time to count) and Owners to be responsible for the direct expenses incurred and delay occurred, including stevedores stand by, which to be limited to one shift. In case of a break down of more than 24 hours shippers / receivers have the option to employ shore cranes, expenses of which to be owner's account. However, time to count full employment of shore gear always to be subject to Owners confirmation which not to be unreasonably withheld.

**CLAUSE 52**

Vessel is ISM covered, Bimco ISPS clause for voyage charter party to apply.

**CLAUSE 53 - QUESTIONNAIRE**

**1) VESSELS CERTIFICATES**

ALL RELEVANT CERTIFICATES ARE TO BE EMAIL/FAXED TO CHARTS PRIOR SUBJECTS TO BE LIFTED AND SAME TO BE VALID FOR THE DURATION OF THE VOYAGE, IN ORDER THAT CHARTERERS MAY SECURE THEIR INSURANCE UNDERWRITERS APPROVAL.

EXPIRY AND CERTIFICATE NUMBER:-

A.SAFETY CERTIFICATE (EQUIPMENT AND CONSTRUCTION) B.CLASSIFICATION CERTIFICATE C.HULL AND MACHINERY CERTIFICATE D.INTERNATIONAL LOAD LINE CERTIFICATE E.DERATIZATION CERTIFICATE F.ISSC (INTERNATIONAL SHIP SECURITY CERTIFICATE) G.PROTECTION AND INDEMNITY H.DOCUMENT OF COMPLIANCE (DOC) I.SAFETY MANAGEMENT CERTIFICATE (SMC)

**2) DIMS OF LOWERHOLDS/TANK TOPS LENGTH X BREADTH FORE AND AFT X HEIGHT: AS PER DESCRIBED ON VESSEL DETAILS.**

**4) TANKTOP/TWD/3RD DECK STRENGTHS/MAX PERMISSIBLE LOADS :AS PER DESCRIBED ON VESSEL DETAILS.**

**5) CLASS: OWNERS CONFIRM VESSEL TO BE HIGHEST IACS CLASS : VESSEL IS INSB GREECE WHICH IS NOT IACS MEMBER WITHOUT OUTSTANDING CLASS RECOMMENDATIONS OR CONDITIONS IMPOSED THAT MAY EFFECT THE EXECUTION OF THIS VOYAGE.**

**6) P+I: OWNERS GUARANTEE THAT THE PERFORMING VESSEL WILL BE FULLY INSURED AND PANDI COVERED (WITH ALL CURRENT PREMIUMS PAID) FOR ALL RISKS (INCLUDING FOR CARGO CLAIMS) AND IS NOT SUBJECT TO ANY KNOWN BREACH OF CLUB RULES AND WILL REMAIN COVERED FOR THE DURATION OF THIS VOYAGE VIA AN INTERNATIONALLY RECOGNISED**

**INSURANCE/PANDI CLUB NAMELY : BRITISH MARINE LUXEMBURG**

**7) GEAR : VSL IS GEARED WITH DERICKS:**



**MV TEOS ADDITIONAL RIDER CLAUSES TO THE CHARTER PARTY DATED 23 JUNE 2009**

- 2 X 10 MTS SWL
- 1 X 22 MTS SWL
- 1 X 60 MTS SWL

**8) SUITABILITY HOLDS/HATCHES: OWNERS TO CONFIRM VSL HAS**

**a BOX SHAPED HOLDS WITHOUT NARROWING: NO AS PER DESCRIBED**

**b DOUBLESKINNED HOLDS THROUGHOUT WITHOUT FRAMES : NO AS PER DESCRIBED ON VESSEL DETAILS**

**c VERTICAL SIDES IE TANKTOP MEETS HOLD SIDE AT 90 DEGREE ANGLE : AS PER DESCRIBED ON VESSEL DETAILS**

**d THE VSL HAS LOWER HOPPERS OR SHELVES/BENCHES/LEDGES : AS PER DESCRIBED ON VESSEL DETAILS**

**e STEELCEILING/FLOOR?: WOODEN FLOOR**

"IN ANY CASE OWS CONFIRM THAT THE VSLS HOLDS HAVE NO BEAMS, RIBS, STEPS, COLUMNS, LEDGES, SHELVES OR CENTERLINE BULKHEAD AND ARE GUARANTEED SUITABLE FOR LOADING STOWING CARRIAGE AND DISCHARGE OF CHTRS DESCRIBED CGO. " WITH WOODEN FLOOR"

**9) H+M: VESSELS HULL+MACHINERY INSURED WITH VALUE USD 3.5 MILLION.**

**10) OWNERS CONFIRM VESSELS LAST 3 VOYAGES WERE ALL HARMLESS NON DANGEROUS MATERIALS/GENS .**

**11)SERVICE SPEED AND CONSUMPTION FIGURES: ABT 10 KNOTS**

**12) OWNERS CONFIRM THE PERFORMING VESSEL HAS NOT DECLARED GENERAL AVERAGE OR BEEN INVOLVED IN AN ACCIDENT/STRANDING/BREAKDOWN INCLUDING GROUNDING, FIRE, CARGO DAMAGE WITHIN THE LAST 2 YEARS**

**13) PSC: LAST PORT STATE CONTROL INSPECTION OF THE VESSEL WAS WHICH ORGANISATION/ COUNTRY/ PORT/ DATE : LAST SEPTEMBER AT LISBON**

**14) VESSEL'S CONTACT DETAILS: MOBILE TEL NO:/TLX NO:/FAX NO: VIA TROY SHIPPING 0090 216 369 4646/MIC CPT ENGIN LAFCI**

**15) 24 HOUR CONTACT DETAILS FOR OWNERS/MANAGERS AND PERSON IN CHARGE : CPT ENGIN AFCEI 0090 216 369 4646**

**16) LAST SPECIAL SURVEY AND DRYDOCK : OCTOBER 2008**

**NEXT SS AND DRYDOCK WILL BE : OCTOBER 2013/OCTOBER**

**17) THE VESSEL IS UNDER CONTINUOUS SURVEY FOR HULL, MACHINERY, GEAR**

**18) HAS THE VESSEL OR VESSEL UNDER THE SAME OWNERSHIP OR MANAGEMENT BEEN ARRESTED DURING THE PAST TWO YEARS :NO**

**19) HAS ANY BANK A MORTGAGE ON VESSEL :NO**



**MV TEOS ADDITIONAL RIDER CLAUSES TO THE CHARTER PARTY DATED 23 JUNE 2009**

**20) THE VESSEL HAS BEEN UNDER THE SAME OWNERSHIP AS INDICATED IN THIS CP FOR THE PAST YEARS : YES**

**21) PLEASE ADVISE OWNERS OTHER VESSELS UNDER SAME OWNERS/MANAGERS: NO**

**22) OWNERS CONFIRM THAT THE VESSEL HAS NOT BEEN INVOLVED IN ANY MARITIME INCIDENT WITHIN THE LAST 5 YEARS INCLUDING BUT NOT LIMITED TO COLLISION/ STRANDING/ GROUNDING/ CAPSIZING/ MACHINERY BREAKDOWN LEADING TO TUG OR OTHER VESSEL ASSISTANCE.**

**23) VESSEL WILL NOT BE SCRAPPED AT END OF THIS VOYAGE.**

**24) FLUSH DECKS - OWNERS CONFIRM THAT BOTH THE MAIN HOLD TANK TOPS AND THE TWEEN DECKS (IF APPLICABLE) ARE FLUSH/WITHOUT PROJECTIONS/OBSTRUCTIONS AND ARE GUARANTEED SUITABLE FOR THE USE OF FORK LIFTS.**

**25) OWNERS CONFIRM THAT HATCHES ARE WATERTIGHT AND THAT THE SEALS/RUBBER GASKETS ARE IN GOOD CONDITION.**

**26) FROM THE DATE OF COMING INTO FORCE OF THE INTERNATIONAL CODE FOR THE SECURITY OF SHIPS AND OF PORT FACILITIES AND THE RELEVANT AMENDMENTS TO SOLAS (THE ISPS CODE) AND THEREAFTER DURING THE CURRENCY OF THIS CP THE OWNERS SHALL PROCURE THAT THE VESSEL AND "THE COMPANY" (AS DEFINED IN THE ISPS CODE) SHALL COMPLY WITH THE REQUIREMENTS OF THE ISPS CODE.**

**27) OWNERS WARRANT THAT THE PERFORMING VESSEL/CARRIER/OWNER/DISPONENT OWNERS/ MANAGERS WILL ALWAYS BE IN CONFORMITY WITH APPLICABLE LAWS RELATING TO THE LOAD/ DISCHARGING COUNTRIES AND ANY WATERS/COUNTRIES VESSEL TRANSITS THROUGH TO PERFORM THIS VOYAGE INCLUDING ALL UNITED NATIONS/ I.M.O./ COAST GUARD/ CUSTOMS/ ISPS/ MTSA OR ANY OTHER MARITIME ORGANISATIONS PROCLAMATIONS/REGULATIONS.**

**OWNERS TO BE FULLY RESPONSIBLE FOR ALL COSTS/CONSEQUENCES IF IN VIOLATION OF THIS WARRANTY.**

**28)BIMCO ISM CLAUSE:-**

**FROM THE DATE OF THE COMING INTO FORCE OF THE INTERNATIONAL SAFETY MANAGEMENT (ISM) CODE IN RELATION TO THE VESSEL AND THEREAFTER DURING THE CURRENCY OF THIS CHARTER PARTY, THE OWNER SHALL PROCURE THAT BOTH THE VESSEL AND 'THE COMPANY' (AS DEFINED BY THE ISM CODE) SHALL COMPLY WITH THE REQUIREMENTS OF THE ISM CODE. UPON REQUEST THE OWNERS SHALL PROVIDE A COPY OF THE RELEVANT DOCUMENT OF COMPLIANCE (DOC) AND SAFETY MANAGEMENT CERTIFICATE (SMC) TO THE CHARTERERS.**

**EXCEPT AS INDICATED IN THIS CHARTERPARTY, LOSS, DAMAGE, EXPENSE OR DELAY CAUSED BY THE FAILURE ON THE PART OF THE OWNERS OF 'THE COMPANY' TO COMPLY WITH THE ISM CODE SHALL BE FOR OWNERS ACCOUNT.**

**OWNERS**

**CHARTERERS**



# EXHIBIT 2

**TRANSCOM SHIPPING N.V.**

Van Engelenweg 23 P.O. Box 3335  
Curaçao Netherlands Antilles

2/7/2009

**INVOICE**

08/2009

**ACCT. K.Y.E. INTERNATIONAL GENERAL  
TRADING L.L.C. - DUBAI**

M/V TEOS  
ANTALYA / ONNE PORT - NIGERIA  
9,500,768 MTS CEMENT

9.500,768 MTS X 41 USD	USD	389,531,48 .-
LESS 2,5 PCT. COMM	USD	9,738,28 .-

<b>GRAND TOTAL</b>	<b>USD</b>	<b>379,793,20.-</b>
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**(ONLYTHREEHUNDEREDSEVENTYNINETHOUSANDSEVENHUNDE  
REDNINETYTHREEDOLLARSTWENTYCENTS)**

PLEASE REMIT TO :

**BANKERS : DEMIRHALK BANK NEDERLAND N.V.  
ROTTERDAM / HOLLAND**

**ACC NO : 074 44 327 58**

**IBAN : NL36DHBN0744432758**

**SWIFT CODE : DHBNNL2R**

**CORR BANK : AMERICAN EXPRESS BANK NEWYORK-NEWYORK**

**IN FAVOUR OF : TRANSCOM SHIPPING N.V.**





# TRANSCOM SHIPPING NV.



Van Engelenweg 23 P.O. Box 3335  
Curaçao Netherlands Antilles

31/8/2009

## INVOICE

10/2009

**ACCT. K.Y.E. INTERNATIONAL GENERAL  
TRADING L.L.C. - DUBAI**

M/V TEOS  
ANTALYA / ONNE PORT - NIGERIA  
9,500,768 MTS CEMENT

DEMURRAGE USD 139,354,41 -  
(23D05H25M)

**GRAND TOTAL USD 139,354,41 -**

**(ONLY ONE HUNDRED THIRTY NINE THOUSAND THREE HUNDRED  
FIFTY FOUR DOLLARS FOURTY ONE CENTS)**

PLEASE REMIT TO :

BANKERS : DEMIRHALK BANK NEDERLAND N.V.  
ROTTERDAM / HOLLAND

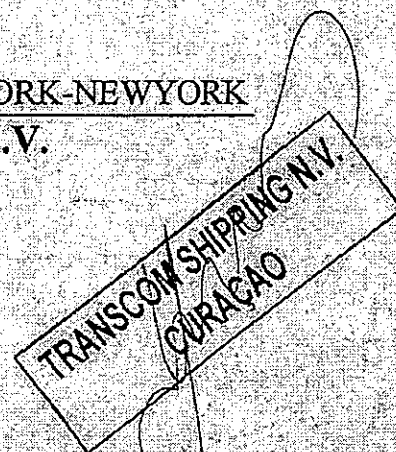
ACC NO : 074 44 327 58

IBAN : NL36DHBN0744432758

SWIFT CODE : DHBNNL2R

CORR BANK : AMERICAN EXPRESS BANK NEWYORK-NEWYORK

**IN FAVOUR OF : TRANSCOM SHIPPING N.V.**



## LAYTIME CALCULATION FOR ONNE PORT

CARGO QTTY : 9,500.25 MTS BAGGED CEMENTS  
 DISCHARGING RATE : 1200 MTS PWWD SHEX EIU 1700 FRIDAY / MONDAY 08:00 HRS  
 DEM : USD 6000 - PDPRTA  
 TIME COUNTING : 8AM/2PM - WIPON/WIFPON/WICCON/WIBON  
 NOR TENDERED : 26.07.2008 0700 HOURS  
 TIME ALLOWED : 07 DAYS 22 HOURS 00 MINS

DAY	TIME	D	H	M	REMARKS
26.07.2009	07:00/24:00	-	-	-	TIME NOT TO COUNT
27.07.2009	00:00/14:00	-	-	-	TIME NOT TO COUNT
27.07.2009	14:00/24:00	-	10	-	DESPATCH
28.07.2009	00:00/24:00	1	-	-	DESPATCH
29.07.2009	00:00/24:00	1	-	-	DESPATCH
30.07.2009	00:00/24:00	1	-	-	DESPATCH
31.07.2009	00:00/17:00	-	17	-	DESPATCH
31.07.2009	17:00/24:00	-	-	-	WEEKEND
01.08.2009	00:00/24:00	-	-	-	WEEKEND
02.08.2009	00:00/24:00	-	-	-	WEEKEND
03.08.2009	00:00/08:00	-	-	-	WEEKEND
03.08.2009	08:00/24:00	-	16	-	DESPATCH
04.08.2009	00:00/24:00	1	-	-	DESPATCH
05.08.2009	00:00/24:00	1	-	-	DESPATCH
06.08.2009	00:00/03:00	-	03	-	VESSEL IS ON DEMURRAGE
06.08.2009	03:00/24:00	-	21	-	DEMURRAGE
07.08.2009	00:00/24:00	1	-	-	DEMURRAGE
08.08.2009	00:00/24:00	1	-	-	DEMURRAGE
09.08.2009	00:00/24:00	1	-	-	DEMURRAGE
10.08.2009	00:00/24:00	1	-	-	DEMURRAGE
11.08.2009	00:00/24:00	1	-	-	DEMURRAGE
12.08.2009	00:00/24:00	1	-	-	DEMURRAGE
13.08.2009	00:00/24:00	1	-	-	DEMURRAGE
14.08.2009	00:00/24:00	1	-	-	DEMURRAGE
15.08.2009	00:00/14:30	-	14	30	DEMURRAGE
15.08.2009	14:30/21:50	-	03	40	DEMURRAGE 1/2 COUNT
15.08.2009	21:50/24:00	-	02	10	DEMURRAGE
16.08.2009	00:00/24:00	1	-	-	DEMURRAGE
17.08.2009	00:00/24:00	1	-	-	DEMURRAGE
18.08.2009	00:00/24:00	1	-	-	DEMURRAGE
19.08.2009	00:00/24:00	1	-	-	DEMURRAGE
20.07.2009	00:00/09:00	-	09	-	DEMURRAGE
20.08.2009	09:00/11:45	-	-	55	DEMURRAGE 1/3 COUNT
20.08.2009	11:45/16:30	-	04	15	DEMURRAGE
20.08.2009	16:30/21:00	-	01	30	DEMURRAGE 1/3 COUNT
20.08.2009	21:00/24:00	-	03	-	DEMURRAGE
21.08.2009	00:00/15:55	-	15	55	DEMURRAGE
21.08.2009	15:55/17:00	-	-	-	SHIFTING
21.08.2009	17:00/24:00	-	07	-	DEMURRAGE
22.08.2009	00:00/07:00	-	07	-	DEMURRAGE
22.08.2009	07:00/11:45	-	-	-	HATCHCOVERS DEFECT
22.08.2009	11:45/24:00	-	12	15	DEMURRAGE
23.08.2009	00:00/24:00	1	-	-	DEMURRAGE
24.08.2009	00:00/16:40	1	-	-	DEMURRAGE
25.08.2009	00:00/24:00	1	-	-	DEMURRAGE
26.08.2009	00:00/24:00	1	-	-	DEMURRAGE
27.08.2009	00:00/24:00	1	-	-	DEMURRAGE
28.07.2009	00:00/24:00	1	-	-	DEMURRAGE
29.07.2009	00:00/23:15	-	23	15	DEMURRAGE



DEMURRAGE TIME

23 DAYS 05 HOURS 25 MINS

TOTAL : USD 139,354.41

15.08.2009 : 1430-2150 ONLY ONE CRANE WORKED INSTEAD OF 2 THEREFORE HALFT TIME TO COUNT AS 03 HOURS 40 MINS

15.08.2009 : AFTER 21.50 HOURS VESSEL CRANES WERE READY TO SERVE BUT STEVEDORES PREFERRED TO WORK WITH TWO GANGS

20.08.2009: 0900 TO 1145 HOURS 2 HOLDS WERE ENGAGED FOR OPENING TWEEN HATCHES THEREFORE 1/3 TIME USED AND COUNT AS 55 MINUTES

20.08.2009 : 1630 TO 2100 2 HOLDS WERE ENGAGED FOR OPENING TWEEN HATCHES THEREFORE 1/3 TIME USED AND COUNT AS 01 HOURS 30 MINUTES





# SUPERMARITIME (NIGERIA) LTD.

## STATEMENT OF FACTS MV TEOS

VSL ARRIVED F. W. BUOY	26/07/09 @ 0700 hrs.
NOTICE TENDERED	26/07/09 @ 0700 hrs.
NOTICE ACCEPTED AS PER CHARTER PARTY AGREEMENT ONLY	" " "
VSL LEFT F. W. BUOY	14/08/09 " 1600 "
VSL ANCHORED BONNYTOWN	" " 1910 "
1 <sup>ST</sup> PILOT ON BOARD BONNY	15/08/09 " 0950 "
VSL BERTHED AT FLT HARD QUAY	15/08/09 " 1225 "
FREE PRATIQUE	15/08/09 " 1330 "
VSL COMMENCED DISCHARGE	15/08/09 " 1630 "
VSL COMPLETED DISCHARGE	29/08/09 " 7315 "
VSL PICK PILOT TO SAIL	30 / 08/09 " "
VSL SAILED	30 / 08/09 " "
VSL DROPPED OUTWARD PILOT	30 / 08/09 " "

DAY	DATE	HAT.	IDLE-TIME	HRS	MIN	REMARKS
SUN	26/7/09	ALL	0700 HRS.	-	-	VSL. ARRIVED F.W.BUOY, AWT INTELS PAYMENT BY RECEIVERS/BERTH.
		ALL	0700-2400	17	00	VSL. @ F.W.BUOY, AWT INTELS PAYMENT BY RECEIVERS/BERTH.
MON	27/7/09	ALL	0000-2400	24	00	VSL. @ F.W.BUOY, AWT INTELS PAYMENT BY RECEIVERS/BERTH.
TUE	28/7/09	ALL	0000-2400	24	00	VSL. @ F.W.BUOY, AWT INTELS PAYMENT BY RECEIVERS/BERTH.
WED	29/7/09	ALL	0000-2400	24	00	VSL. @ F.W.BUOY, AWT INTELS PAYMENT BY RECEIVERS/BERTH.
THU	30/7/09	ALL	0000-2400	24	00	VSL. @ F.W.BUOY, AWT INTELS PAYMENT BY RECEIVERS/BERTH.
FRI	31/7/09	ALL	0000-2400	24	00	VSL. @ F.W.BUOY, AWT INTELS PAYMENT BY RECEIVERS/BERTH.
SAT	01/8/09	ALL	0000-2400	24	00	VSL. @ F.W.BUOY, AWT INTELS PAYMENT BY RECEIVERS/BERTH.
SUN	02/8/09	ALL	0000-2400	24	00	VSL. @ F.W.BUOY, AWT INTELS PAYMENT BY

						RECEIVERS/BERTH.
MON	03/8/09	ALL	0000-2400	24	00	VSL. @ F.W.BUOY, AWT INTELS PAYMENT BY RECEIVERS/BERTH.
TUE	04/8/09	ALL	0000-2400	24	00	VSL. @ F.W.BUOY, AWT INTELS PAYMENT BY RECEIVERS/BERTH.
WED	05/8/09	ALL	0000-2400	24	00	VSL. @ F.W.BUOY, AWT INTELS PAYMENT BY RECEIVERS/BERTH.
THU	06/8/09	ALL	0000-2400	24	00	VSL. @ F.W.BUOY, AWT INTELS PAYMENT BY RECEIVERS/BERTH.
FRI	07/8/09	ALL	0000-2400	24	00	VSL. @ F.W.BUOY, AWT INTELS PAYMENT BY RECEIVERS/BERTH.
SAT	08/8/09	ALL	0000-2400	24	00	VSL. @ F.W.BUOY, AWT INTELS PAYMENT BY RECEIVERS/BERTH.
SUN	09/8/09	ALL	0000-2400	24	00	VSL. @ F.W.BUOY, AWT INTELS PAYMENT BY RECEIVERS/BERTH.
MON	10/8/09	ALL	0000-2400	24	00	VSL. @ F.W.BUOY, AWT INTELS PAYMENT BY RECEIVERS/BERTH.
TUE	11/8/09	ALL	0000-2400	24	00	VSL. @ F.W.BUOY, AWT INTELS PAYMENT BY RECEIVERS/BERTH.
WED	12/8/09	ALL	0000-2400	24	00	VSL. @ F.W.BUOY, AWT INTELS PAYMENT BY RECEIVERS/BERTH.
THU	13/8/09	ALL	0000-2400	24	00	VSL. @ F.W.BUOY, AWT INTELS PAYMENT BY RECEIVERS/BERTH.
FRI	14/8/09	ALL	0000-1600	16	00	VSL. @ F.W.BUOY, AWT INTELS PAYMENT BY RECEIVERS/BERTH.
		ALL	1600-1910	03	10	VSL. LEFT F.W.BUOY, PROCEEDING TO BONNYTOWN ANCHORAGE.
		ALL	1910-2400	05	10	VSL. @ BONNY TOWN ANCHORAGE, AWT. DAYBREAK/DAYLIGHT.
SAT	15/8/09	ALL	0000-0950	09	50	VSL. @ BONNYTOWN ANCHORAGE.

			0950-1225	03	35	POB/PROCEEDING TO ONNE
			1225-1330		55	FREE PRATIQUE GRANTED
			1330-1430	01	00	CUSTOMS BREAK-BULK
SAT	15/8/09	ALL	1430-1630	02	00	WORK ARRANGEMENT/UNLASHING OF CARGO
		3	1630-1650	-	20	DISCHARGING
		ALL	1650-1730	-	40	RAINFALL
		3	1730-2400	06	30	DISCHARGING
		2	1430-2150	07	20	ELECTRIC CRANE DEFECT
		2	2150-2400	03	10	DISCHARGING
		1	1430-2400	10	30	CRANE DEFECT
SUN	16/8/09	2/3	0000-0630	06	30	DISCHARGING
		ALL	0630-1120	04	50	RAINFALL
		2/3	1120-1315	01	55	DISCHARGING
		ALL	1315-1430	01	15	RAINFALL
		2/3	1430-1605	01	35	DISCHARGING
		ALL	1605-2030	04	25	RAINFALL
		1/2/3	2030-2400	03	30	DISCHARGING
MON	17/8/09	ALL	0000-1210	12	10	RAINFALL
		1/2/3	1210-1440	02	30	DISCHARGING
		3	1430-1440		10	FORK LIFT LOWERED INTO HOLD
		ALL	1440-1535	-	50	RAINFALL
		1/2/3	1535-2105	05	35	DISCHARGING
		ALL	2105-2400	02	55	RAINFALL
TUE	18/8/09	ALL	0000-0040	-	40	RAINFALL
		4	0040-0300	02	20	AWT. REC. TRUCKS
		3	0040-0300	02	20	DISCHARGING
		3	0300-0700	04	00	AWT. REC. TRUCKS
		2	0040-0420	03	40	DISCHARGING
		2	0420-0700	02	40	AWT. REC. TRUCKS
		ALL	0700-1210	03	10	RAINFALL
		1	1210-1605	03	55	DISCHARGING
		1	1605-1610	-	10	FORK LIFT OUT OF HOLD
		1	1610-2225	06	15	DISCHARGING
		3	1210-1420	02	10	DISCHARGING
		3	1420-1430	-	10	FORK LIFT INTO HOLD
		3	1430-2225	07	55	DISCHARGING
		2	1210-1950	07	40	DISCHARGING
		2	1950-1955	-	05	FORK LIFT LOWERED INTO HOLD
		2	1955-2225	02	30	DISCHARGING
		ALL	2225-2400	01	35	RAINFALL

MASTER REMARKS: on 15.08.09. Between 14.30 - 24.00.

hold no 1 ready to work, but stevedores worked  
ONLY 2 gangs.

MYTEOS  
KINGSTOWN

WED	19/08/9	ALL	0000-0330	03	30	RAINFALL
		ALL	0330-0800	04	30	AWT. REC. TRUCKS.
		2	0800-0900	01	00	DISCHARGING
		2	0900-0930	-	30	CHANGE OF FORK LIFT
		2	0930-1040	-	50	DISCHARGING
		1	1040-1155	-	25	DISCHARGING
		2/3	1155-1315	01	20	DISCHARGING
		ALL	1315-1415	01	00	RAINFALL
		1/2/3	1415-1630	02	15	DISCHARGING
		ALL	1630-1910	02	40	RAINFALL
		1/3	1910-2200	02	50	DISCHARGING
		1/2/3	2200-2400	02	00	AWT. REC. TRUCKS
THU	20/08/9	2	0000-0200	02	00	AWT. REC. TRUCKS
		2	0200-0250	-	50	DISCHARGING
		3	0200-0250	-	50	AWT. REC. TRUCKS
		2/3	0250-0330	-	40	DISCHARGING
		2/3	0330-0425	-	55	AWT. REC. TRUCKS
		ALL	0425-1900	14	35	RAINFALL
		2/3	0900-1145	02	45	OPENING OF HATCH COVER
		2	1145-1615			DISCHARGING
		ALL	1615-1630		15	RAIN
		2	1630-2100	04	30	AWAITING OPENING OF HATCH TWIN DECK
		3	1630-2400	07	30	DISCHARGING
		2	2100-2400	03	00	DISCHARGING
FRI	21/08/9	2/3	0000-0230	02	30	DISCHARGING
		2/3	0230-0430	02	00	AWT. REC. TRUCKS
		2/3	0430-0615	01	45	DISCHARGING
		2/3	0615-0630		15	AWT. REC. TRUCKS
		ALL	0630-1420	07	50	AWT. SHIFTING OF VSL.
		2/3	1420-1430	-	10	AWT. OPENING OF HATCH COVER
		2/3	1430-1555	01	25	DISCHARGING
		ALL	1555-1615	-	20	ARRANGMENT TO SHIFT VSL. BACKWARD
		ALL	1615-1700	-	45	SHIFTING OF VSL. BACKWARD
		3	1700-1820	01	20	AWAITING LABOUR
		3	1820-1840	-	20	DISCHARGING
		2	1820-1840	-	20	AWAITING LABOUR
		ALL	1840-2035	01	55	RAINFALL
		2/3	2035-2055	-	20	DISCHARGING
		ALL	2055-2400	03	05	RAINFALL
SAT	22/08/9	ALL	0000-1145	11	45	HATCH COVER DEFECT

MASTER REMARKS: ON 20.08.09. Between 09.00-11.45 - Discharging  
 — " — Between 16.30-21.00. - Awaiting  
 Skips crew to open hatch no 2  
 T/D. HEAVY RAIN  
 MYTEOS  
 KINGSTOWN

		ALL	1145-1205	-	20	RAINFALL
		ALL	1205-1225	-	20	RAINFALL
		ALL	1225-1235	-	10	OPENING OF HATCH
SAT	22/08/9	2/3	1235-1350	01	15	DISCHARGING
		ALL	1350-1535	01	45	RAINFALL
		2	1535-1830	02	55	DISCHARGING
		3	1535-2000	04	25	DISCHARGING
		2	1830-2130	03	00	AWT. REC. TRUCKS
		2	2130-2200	-	30	DISCHARGING
		2	2200-2400	02	00	AWT. REC. TRUCKS
		1	1530-2045	05	15	DISCHARGING
		1	2045-2400	03	15	AWT. REC. TRUCKS
		3	2000-2400	04	00	AWT. REC. TRUCKS
SUN	23/08/9	3	0000-0530	05	30	AWT. REC. TRUCKS
		3	0530-0610	-	40	DISCHARGING
		3	0610-0730	01	20	AWT. REC. TRUCKS
		3	0730-1115	04	45	DISCHARGING
		2	0730-1145	04	15	AWT. REC. TRUCKS
		ALL	1145-1215	-	30	RAINFALL
		2	1215-1515	03	00	DISCHARGING
		2	1515-1620	01	05	AWT. REC. TRUCKS
		3	1215-1620	04	05	AWT. REC. TRUCKS
		2/3	1620-1800	01	40	DISCHARGING
		2/3	1800-1900	01	00	AWT. REC. TRUCKS
		2/3	1900-2025	01	25	DISCHARGING
		2/3	2025-2400	03	35	AWT. REC. TRUCKS
MON	24/08/9	2	0000-0130	01	30	DISCHARGING
		3	0000-0130	01	30	AWT. REC. TRUCKS.
		ALL	0130-0430	03	00	RAINFALL
		3	0430-0540	01	10	DISCHARGING
		3	0430-0530	01	00	AWT. REC. TRUCKS
		2	0540-0755	02	15	AWT. REC. TRUCKS
		3	0540-0755	02	15	DISCHARGING
		ALL	0755-1010			RAINFALL
		3	1010-1150	01	40	DISCHARGING
		2	1010-1035	-	25	AWT. REC. TRUCKS
		3	1150-1235	-	45	AWT. REC. TRUCKS
		2	1035-1355	03	20	AWT. REC. TRUCKS
		3	1235-1405	01	30	DISCHARGING
		3	1405-1700	02	55	AWT. REC. TRUCKS
		2	1355-1440	-	45	DISCHARGING
		2	1440-1700	02	20	AWT. REC. TRUCKS
		ALL	1700-1930	02	30	STEVEDORES MEAL HOUR
		2/3	1930-1945	-	15	DISCHARGING

MASTER REMARK'S: on 22.08.09 at 00.00 to 07.00. waiting truck.  
07.00 - 11.45. latek cover defect.

MY TEOS  
KINGSLOW



		ALL	1145-1205	-	20	OPENING OF HATCH
		ALL	1205-1225	-	20	RAINFALL
		ALL	1225-1235	-	10	OPENING OF HATCH
SAT	22/08/9	2/3	1235-1350	01	15	DISCHARGING
		ALL	1350-1535	01	45	RAINFALL
		2	1535-1830	02	55	DISCHARGING
		3	1535-2000	04	25	DISCHARGING
		2	1830-2130	03	00	AWT. REC. TRUCKS
		2	2130-2200	-	30	DISCHARGING
		2	2200-2400	02	00	AWT. REC. TRUCKS
		1	1530-2045	05	15	DISCHARGING
		1	2045-2400	03	15	AWT. REC. TRUCKS
		3	2000-2400	04	00	AWT. REC. TRUCKS
SUN	23/08/9	3	0000-0530	05	30	AWT. REC. TRUCKS
		3	0530-0610	-	40	DISCHARGING
		3	0610-0730	01	20	AWT. REC. TRUCKS
		3	0730-1115	04	45	DISCHARGING
		2	0730-1145	04	15	AWT. REC. TRUCKS
		ALL	1145-1215	-	30	RAINFALL
		2	1215-1515	03	00	DISCHARGING
		2	1515-1620	01	05	AWT. REC. TRUCKS
		3	1215-1620	04	05	AWT. REC. TRUCKS
		2/3	1620-1800	01	40	DISCHARGING
		2/3	1800-1900	01	00	AWT. REC. TRUCKS
		2/3	1900-2025	01	25	DISCHARGING
		2/3	2025-2400	03	35	AWT. REC. TRUCKS
MON	24/08/9	2	0000-0130	01	30	DISCHARGING
		3	0000-0130	01	30	AWT. REC. TRUCKS.
		ALL	0130-0430	03	00	RAINFALL
		3	0430-0540	01	10	DISCHARGING
		3	0430-0530	01	00	AWT. REC. TRUCKS
		2	0540-0755	02	15	AWT. REC. TRUCKS
		3	0540-0755	02	15	DISCHARGING
		ALL	0755-1010			RAINFALL
		3	1010-1150	01	40	DISCHARGING
		2	1010-1035	-	25	AWT. REC. TRUCKS
		3	1150-1235	-	45	AWT. REC. TRUCKS
		2	1035-1355	03	20	AWT. REC. TRUCKS
		3	1235-1405	01	30	DISCHARGING
		3	1405-1700	02	55	AWT. REC. TRUCKS
		2	1355-1440	-	45	DISCHARGING
		2	1440-1700	02	20	AWT. REC. TRUCKS
		ALL	1700-1930	02	30	STEVEDORES MEAL HOUR
		2/3	1930-1945	-	15	DISCHARGING

MASTER REMARK'S: on 22.08.09 at 00.00 to 07.00. waiting truck.  
07.00 - 11.45, hatch cover defect

MY TEOS  
KINGSTOWN



		ALL	1945-2205			RAINFALL
		2/3	2205-2400	01	55	DISCHARGING
TUE	25/08/9	ALL	0000-0100	01	00	STEVEDORES MEAL HOUR
		2/3	0100-0315	02	15	DISCHARGING
		2/3	0315-0440	01	25	AWT. REC. TRUCKS
		2	0440-0510	-	30	DISCHARGING
		3	0440-0510	-	30	AWT. REC. TRUCKS
		2	0510-0530	-	20	AWT. REC. TRUCKS
		ALL	0530-0730	02	00	CHANGE OVER DUTY
		ALL	0730-1055	03	20	RAINFALL
		2/3	1055-1200	01	05	DISCHARGING
		ALL	1200-1300	01	00	STEVEDORES MEAL HOUR
		2	1300-1455	01	45	DISCHARGING
		3	1300-1430	01	30	DISCHARGING
		3	1430-1455	-	25	AWT. REC. TRUCKS
		2/3	1455-1800	03	05	DISCHARGING
		ALL	1800-1930	01	30	CHANGE OVER DUTY
		2/3	1930-2010	-	40	WORK ARRANGEMENT
		2/3	2010-2400	03	50	DISCHARGING
WED	26/08/9	ALL	0000-0100	01	00	LABOUR MEAL HOUR
		2/3	0100-0240	01	40	DISCHARGING
		2/3	0240-0350	01	10	AWT. REC. TRUCKS
		1	0350-0410	-	20	AWT. REC. TRUCKS
		2	0410-0420	-	10	FORK LIFT LOWERED INTO HOLD
		2	0420-0500	-	40	DISCHARGING
		2	0500-0530	-	30	AWT. REC. TRUCKS
		3	0530-0530	01	40	DISCHARGING
		ALL	0530-0730	02	00	CHANGE OVER DUTY
		ALL	0730-0905	01	35	AWT. REC. TRUCKS
		ALL	0905-1035	01	30	RAINFALL
		2/3	1035-1105	-	30	DISCHARGING
		2/3	1105-1200	-	45	AWT. REC. TRUCKS
		ALL	1200-1300	01	00	STEVEDORES MEAL HOUR
		2/3	1300-1430	01	30	AWT. REC. TRUCKS
		2/3	1430-1520	-	50	DISCHARGING
		2	1520-1545	-	25	FORKLIFT OUT OF HOLD
		2	1545-1700	01	15	AWT. REC. TRUCKS
		3	1430-1700	02	30	DISCHARGING
		ALL	1700-1930	02	30	CHANGE OVER DUTY
		ALL	1930-2000	-	30	WORK ARRANGEMENT
		2/3	2000-2050	-	50	DISCHARGING
		ALL	2050-2400	03	10	RAINFALL
		2/3	2100-2400	03	00	DISCHARGING



# EXHIBIT 3

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

TRANSCOM SHIPPING N.V.,

Plaintiff,

- against -

KYE INTERNATIONAL GENERAL TRADING LLC,

Defendant.

09 CV \_\_\_\_\_

ECF CASE

# AFFIDAVIT IN SUPPORT OF PRAYER FOR MARITIME ATTACHMENT

State of Connecticut )  
 ) ss: Southport  
County of Fairfield )

Coleen A. McEvoy, being duly sworn, deposes and says:

1. I am a member of the Bar of this Court and represent the Plaintiff herein. I am familiar with the facts of this case and make this Affidavit in support of Plaintiff's prayer for the issuance of a Writ of Maritime Attachment and Garnishment, pursuant to Rule B of the Supplemental Admiralty Rules of the Federal Rules of Civil Procedure.

DEFENDANT IS NOT PRESENT IN THE SOUTHERN DISTRICT OF NEW YORK

2. I have attempted to locate the Defendant KYE INTERNATIONAL GENERAL TRADING LLC within the Southern District of New York (hereinafter "SDNY"). As part of my investigation to locate the Defendant within the SDNY, I checked the telephone company information directory, as well as the white and yellow pages for New York listed on the Internet or World Wide Web, and did not find any listing for the Defendant. Finally, I checked the New York State Department of Corporations' online database which showed no listings or registration for the Defendant.

3. I submit based on the foregoing that the Defendant cannot be found within the SDNY within the meaning of Rule B of the Supplemental Rules for Admiralty and Maritime Claims and Asset Forfeiture Actions ("Rule B").

**DEFENDANT'S PROPERTY MAY BE FOUND IN THE SDNY**

4. Upon information and belief, and also based upon payments made by the Plaintiff to the Defendant under the involved contracts which were sent by way of electronic funds transfers routed through New York intermediary banks, the Defendant has, or will have during the pendency of this action, tangible and intangible property as the same is defined under Rule B within the SDNY and subject to the jurisdiction of this Court, held in the hands of garnishees within the SDNY, which are believed to be due and owing to the Defendant.

5. Upon information and belief, in the case of payments made by foreign parties, the vast majority of electronic funds transfers in U.S. dollars pass through banking/financial intermediaries located within the SDNY.

6. Upon information and belief, Defendant has ongoing contractual obligations, or has had such obligations, that require it to make send / receive payments in U.S. dollars. Thus, the likelihood that the Defendant will send / receive future payments through one of the banks named in Schedule "A" to the proposed ORDER DIRECTING CLERK TO ISSUE PROCESS OF MARITIME ATTACHMENT AND GARNISHMENT AND APPOINTING PROCESS SERVER is high and satisfies the reasonable belief threshold. The garnishee banks listed are limited to ones who regularly act as "intermediary banks" to effect wire transfers in U.S. dollars between a foreign originating bank and a foreign beneficiary bank.

**PRAYER FOR RELIEF FOR ORDER ALLOWING SPECIAL PROCESS SERVER**

7. Plaintiff seeks an Order pursuant to Rule 4(c) of the Federal Rules of Civil Procedure, for an Order appointing Patrick F. Lennon, Kevin J. Lennon, Charles E. Murphy, Nancy R. Peterson, Coleen A. McEvoy, Anne C. LeVasseur, Darin L. Callahan or any other partner, associate, paralegal or agent of Lennon, Murphy & Lennon, LLC, or any process server employed by Gotham Process Servers, in addition to the United States Marshal, to serve the Ex Parte Order and Process of Maritime Attachment and Garnishment, together with any interrogatories, upon the garnishee(s), together with any other garnishee(s) who (based upon information developed subsequent hereto by the Plaintiff) may hold assets of, for or on account of, the Defendant.

8. Plaintiff seeks to serve the prayed for Process of Maritime Attachment and Garnishment with all deliberate speed so that it may be fully protected against the potential of being unable to satisfy a judgment/award ultimately obtained by Plaintiff and entered against the Defendant.

9. To the extent that this application for an Order appointing a special process server with respect to this attachment and garnishment does not involve a restraint of physical property, it is submitted that there is no sound reason to require that the service be effected by the Marshal as it involves simple delivery of the Process of Maritime Attachment and Garnishment to the various garnishees to be identified in the writ and the required use of a Marshal will cause delay, additional expense and provide no benefit in respect of the purpose for which Plaintiff has filed this action.

**PRAYER FOR RELIEF TO SERVE LATER IDENTIFIED GARNISHEES**

10. Plaintiff also respectfully requests that the Court grant it leave to serve any additional garnishee(s) who may, upon information and belief obtained in the course of this litigation, to be holding, or believed to be holding, property of the Defendants, within the SDNY. Obtaining leave of Court at this time to serve any later identified garnishees will allow for prompt service of the Process of Maritime Attachment and Garnishment without the need to present to the Court amended Process seeking simply to identify other garnishee(s).

**PRAYER FOR RELIEF TO DEEM SERVICE CONTINUOUS**

11. Further, in order to avoid the need to repetitively serve the garnishees/banks, Plaintiff respectfully seeks further leave of the Court, as set out in the proposed Ex Parte Order for Process of Maritime Attachment, for any process that is served on a garnishee to be deemed effective and continuous service of process throughout any given day on which process is served and throughout the next day, provided that process is served the next day, and to authorize service of process via facsimile or e-mail following initial *in personam* service.

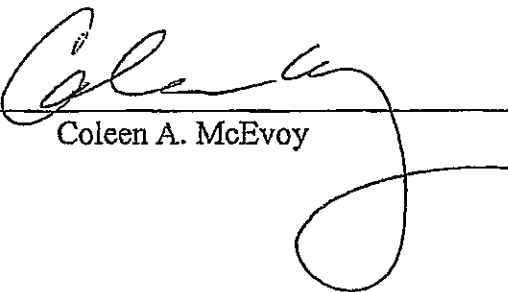
12. Several garnishee banks, including, but not limited to, J.P. Morgan Chase, BNP Paribas, Societe Generale, have refused to consent to deem service of Rule B Orders and Writs continuous which will necessitate parties to serve these garnishees numerous times throughout any given day. In seeking an Ex Parte Order deeming service continuous the Plaintiff relies on the holding on *DNSD Subsea AS v. Oceanografia, S.A. de CV*, 569 F. Supp. 2d 339, 347 (S.D.N.Y. 2008) which, in upholding the propriety of an Ex Parte Order which deemed service continuous, stated as follows:

Clearly, the goal of the continuous service provision contained in the order signed by Judge Karas in this case and by Judge Scheindlin in *Ulisses* was *not* to undermine the Second Circuit's prohibition on the attachment of after-acquired

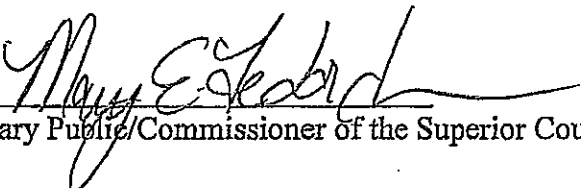
property announced in *Reibor*. Rather, the continuous service provision 'was intended to avoid the absurdity, security problems, and inconvenience of requiring the garnishee banks to accept service repeatedly throughout the day.' *Ulysses*, 415 F. Supp. 2d at 328. Indeed, the absence of such a continuous service provision – either by court order or by consent from the garnishees – would inevitably result in the posting of lawyers and/or process servers at bank offices around the clock in an attempt to capture EFTs at the precise moment of their arrival. Defendant's narrow reading of *Reibor*, would, in effect, overrule the Second Circuit's later holding in *Winter Storm* – something the Second Circuit expressly declined to do in *Aqua Stoli* -- by making it virtually impossible to attach EFTs in Rule B cases.

13. The Courts within the Southern District of New York have an interest in preserving the efficacy of the Ex Parte Orders issued therein. As a result, and in order to give effect to the Rule B relief requested herein, the Plaintiff request that the Court issue an Ex Parte Order deeming service continuous.

Dated: October 7, 2009

  
Coleen A. McEvoy

Sworn and subscribed to before me  
this 7th day of October, 2009

  
Notary Public/Commissioner of the Superior Court

